IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.653 OF 2007

Sanjay Dinkar Nanaware ...Petitioner

Versus

Gram Sevak, Jite on behalf of Group Grampanchayat Jite, Tal. Mahad & Ors. ...Respondents

Ms P.M.Mhatre i/by Shri D.N.Salvi for the Petitioner.
Shri Vikas Mali for the Respondent No.1.
Shri Vishwanath Talkute for the Respondent Nos.3 to 7.

CORAM : ABHAY S.OKA, J.
DATED : APRIL 25, 2007.

P.C.:

1. Heard learned Advocates appearing for the parties. The Petitioner was a sarpanch of a Village Panchayat. The second to seventh Respondents are the other members of the Village Panchayat. A motion of no confidence was moved against the Petitioner at the instance of the five members of the Panchayat. A meeting was convened by the Tahsildar to consider the motion of no confidence. Out of seven members present in the meeting, five voted in favour of the resolution and two votes against the resolution. In proceedings under section 35(3-B) of the Bombay Village Panchayats Act, 1959, the Collector upheld the validity of the motion of no confidence. The Appeal preferred by the Petitioner against the order of the Collector has been dismissed by the Additional Commissioner, Konkan Division. The submission made before this Court is that

the voting was by a secret ballot and infact only four members voted in favour of the no confidence motion. It was contended that ballot paper of one of the Members is blank and therefore if the vote casted by the said member is ignored, the resolution has not been carried by the two third majority. This court by order dated 29th January 2007 had directed the Additional Commissioner to forward the ballot papers in a sealed envelope. Accordingly the ballot papers have been forwarded in sealed envelope. With the consent of the parties, the sealed envelope is opened and the ballot papers are perused. On perusal of the ballot papers it is not possible to accept the contention that one ballot paper is completely blank. Infact, on the said ballot paper there is a tick mark clearly appearing against the column No.2.

2. It is thus apparent that five members voted in favour of the motion of no confidence out of seven. Thus, the motion was carried by a two third majority.

3. No case is made out for interference. Writ Petition is rejected.

4. The envelope containing ballot papers shall be sealed by the registry and the envelope shall be sent back to the office of the Additional Commissioner,

Konkan Division, Mumbai.

JUDGE